Page 1

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 1              UNITED STATES DISTRICT COURT

 2              EASTERN DISTRICT OF VIRGINIA

 3                   RICHMOND DIVISION

 4   ****************************************************
     DONNA K. SOUTTER, For Herself and On Behalf of All
 5   Similarly Situated Individuals,

 6              Plaintiffs,
                   v.                     Civil Action Number
 7                                           3:10cv107
     EQUIFAX INFORMATION SERVICES, LLC,
 8
                Defendant.
 9   ****************************************************

10

11

12

13                   DEPOSITION OF

14                   MAMIKO BARNARD

15                  October 6, 2010

16             12:50 p.m.  -  1:52 p.m.

17                 Richmond, Virginia

18

19

20

21

22

23

24   JOB NO: 33526

25   REPORTED BY:  GWENDA E. APPLEGATE, RPR, CRR
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 1        Deposition of MAMIKO BARNARD, taken and
 2   transcribed on behalf of the Defendant, by and
 3   before Gwenda E. Applegate, Court Reporter, Notary
 4   Public in and for the Commonwealth of Virginia at
 5   large, pursuant to Rule 30 of the Rules of Civil
 6   Procedure, and by Notice to Take Depositions;
 7   commencing at 12:50 p.m., October 6, 2010, at
 8   McGuire Woods, 901 East Cary Street, Richmond,
 9   Virginia.
10   APPEARANCES OF COUNSEL:
11      By: CONSUMER LITIGATION ASSOCIATES, P.C.
           12515 Warwick Boulevard, Suite 100
12         Newport News, VA  23606
           LEONARD A. BENNETT, ESQ.,
13            -- and --
           MATTHEW J. ERAUSQUIN, ESQ.,
14         Counsel for the Plaintiffs
15
16      By: KING & SPALDING
           1180 Peachtree Street, N.E.
17         Atlanta, GA  30309
           J. ANTHONY LOVE, ESQ.,
18         Counsel for the Defendant
19
20      By: OFFICE OF THE ATTORNEY GENERAL
           900 East Main Street
21         Richmond, VA  23219
           PAUL KUGELMAN, JR., ESQ.,
22         Counsel for the Deponent
23
24
25
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 1
 2              I N D E X
 3   WITNESS:
 4    MAMIKO BARNARD
 5      Examination by Mr. Love.................4, 46
 6      Examination by Mr. Bennett...............37
 7
 8
 9
10            E X H I B I T S
11   NUMBER          DESCRIPTION:        MARKED:
12    Exhibit 6 ...Search request.................11
13    Exhibit 7 ...Requested list.................28
14              * * * * * *
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 1   (October 6, 2010, 12:50 p.m.)
 2
 3            MAMIKO BARNARD
 4      first duly sworn, testified as follows:
 5            E X A M I N A T I O N
 6   BY MR. LOVE:
 7      Q    Would you state your name for the record,
 8   please, ma'am.
 9      A    Mamiko Barnard.
10      Q    Ms. Barnard, my name is Tony Love, and I am an
11   attorney from Atlanta, Georgia.  I represent Equifax
12   which is the defendant in this civil action filed by
13   Donna Soutter, whose attorneys are also here.
14      A    Okay.
15      Q    You and I spoke briefly on the phone yesterday
16   about this case, didn't we?
17      A    (Indicating in the affirmative).
18      Q    We've never met before, have we?
19      A    No.
20      Q    And that was the only time we've ever talked
21   about this case?
22      A    Exactly.  That's correct.
23      Q    Would you tell us your current job title?
24      A    Programmer analysis.
25      Q    Who are you employed with?
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 1      A    Supreme Court of Virginia.
 2      Q    How long have you held that position?
 3      A    I've been at supreme court 199 -- since 1989
 4   and the programmer position since '91, '92.
 5      Q    What types of things do you do as a programmer
 6   with the Supreme Court of Virginia?
 7      A    Work for a general district team and mostly
 8   general district, traffic, criminal, civil cases, and
 9   juvenile domestic program, maintain or create the
10   program, and the Freedom of Information request comes
11   from, queries, and actually create another program or
12   so...
13      Q    What is your training and educational
14   background in computer programming?
15      A    John Tyler Community College.
16      Q    And how often do you -- well, when you get
17   these Freedom of Information Act requests, tell me the
18   steps that you go through to fulfill one of those
19   requests from a programming standpoint.
20      A    The research first, what are they asking for,
21   and we have so many table.  Depends on what they are
22   asking for.  So look at the table, the structure, how we
23   will retrieve the data.
24      Q    Yes, ma'am.  Were you asked in this case to
25   provide certain data by Ms. Soutter's attorneys?
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TSG Reporting 877-702-9580

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 1     A   Yes.
 2     Q   And what database did you pull that
 3  information from?
 4     A   Database or the table?  It's the --
 5     Q   Okay.  Let's make sure that I understand.  The
 6  information that you pulled together to create the list
 7  that was provided to Ms. Soutter's attorneys was pulled
 8  from certain tables that are maintained by the Virginia
 9  Supreme Court; is that correct?
10     A   That's correct.  That's correct.
11     Q   And are each of those tables stored in a
12  database?
13     A   Database, actually, yes.
14     Q   And what is the name of the database in which
15  these tables are stored?
16     A   This is a DB2 database.
17     Q   How many tables are stored in the DB2 database
18  that relate to --
19     A   General district or...
20     Q   Yes, ma'am.  In the -- how many tables are
21  there for the general district courts of Virginia civil
22  divisions in the DB2 database?
23     A   Not off my hand, I mean, I cannot answer you
24  because the -- I cannot tell you.  There's pre,
25  defendant/plaintiff table, order table, garnishment
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 1  table, introductory table.  There's actually active and
 2  inactive also, and a hearing table.
 3     Q   Which tables did you search in the DB2
 4  database to create the list that was requested by
 5  Ms. Soutter's attorneys?
 6     A   Okay.  Plaintiff and -- defendant/plaintiff
 7  table is the same table.  It's one large table.  Then
 8  order table, hearing table and court reference.  These
 9  court reference goes with general district, criminal,
10  traffic cases and civil cases also.  And reference, one
11  was a reference table.  And I think there is one, two,
12  three, four.  Did I give you the four or --
13     Q   Let me see if I have the four right.
14     A   Yes.
15     Q   The defendant/plaintiff table is number one?
16     A   Yes.
17     Q   The order table is number two?
18     A   Yes.
19     Q   The hearing table is number three?
20     A   Yes.
21     Q   And the court reference table is number four?
22     A   That's correct.
23     Q   Those were the four tables within the DB2
24  database that you searched to create the list of
25  information that was requested by Ms. Soutter's
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 1  attorneys; is that right?
 2     A   That's correct.
 3     Q   What information does the defendant/plaintiff
 4  table contain about court cases in the general district
 5  courts and circuit courts of Virginia?
 6     A   Circuit does not contain any general district
 7  informations.
 8     Q   Okay.  And let me just, while we're on that
 9  subject, clarify this point.  The information that you
10  put together for plaintiff's counsel contains only
11  information from the general district courts; is that
12  correct?
13     A   That's correct.  That's correct.
14     Q   All right.  So for the defendant/plaintiff
15  table, what information does that table contain about
16  judgments or the dispositions of judgments in the
17  general district courts of Virginia?
18     A   Case number, the plaintiff and defendant
19  names, defendant or plaintiff code, the sequence because
20  we have, in one case, it contained so many defendants,
21  so many plaintiffs, so you have sequence in there also.
22  Then a Social Security number, birthday, judgment code,
23  address change indicator, name type code such as it is
24  going to be civil cases as business, as -- I mean, trade
25  as, whatever.  So you have identify which is it.  Then
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 1  address.
 2     Q   What information about judgments or
 3  dispositions of judgments --
 4     A   Each individual plaintiff or, plaintiff or
 5  defendant judgments.
 6         MR. KUGELMAN:  Let him finish asking the
 7     question first.
 8         THE WITNESS:  Okay.  I'm sorry.
 9  BY MR. LOVE:
10     Q   That's okay.  I was going to ask -- I was
11  shifting gears from the defendant/plaintiff table --
12     A   Okay.
13     Q   -- to talk about the order table.
14     A   Okay.
15     Q   So that you could tell us, if you would,
16  what's the information contained in the order table.
17     A   Okay.  Order table, it's the case number also,
18  and the date of appeal noted, noted date and date of
19  appeal perfected dates, attorney fees, satisfied
20  indicator and a satisfied date, judgment satisfied date,
21  possession amount indicator, the principal awarded
22  amount, other amount, cost amount, judgment amount,
23  mediation date, the mediation reside flags, interest
24  amount, writing issue date, appealed by who.
25     Q   Okay.  What information would be contained in
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1 the hearing table?
2   A   Hearing, case number and hearing date, hearing
3 results, the plea and hearing type, judge's initial,
4 courtroom, its continue code, hearing time actually,
5 docket order. It's that this is going to be first or,
6 first hearing date or the flags, actually. And the
7 posting sequence numbers.
8   Q   And finally, what information is contained in
9 the court reference table?
10   A   Court reference, it's court names, court
11 addresses, state, zip and telephone number, and a court
12 type.
13   Q   Which of these tables would contain
14 information indicating whether and when a judgment about
15 a consumer had been satisfied?
16   A   It's in order, satisfied indicator and the
17 satisfied date, judgment satisfied dates.
18   Q   Which of these tables would indicate whether
19 and when a judgment had been vacated?
20   A   It's in the plaintiff and defendant tables.
21   Q   Which of these tables would indicate when a
22 judgment had been appealed? Is that the --
23   A   Order.
24   Q   Would the -- I think you mentioned earlier
25 that the hearing table would also contain information

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1 showing the date appeal noted and the date appeal
2 perfected?
3   A   No, sir.
4   Q   So that's the order table?
5   A   That's the order table.
6   Q   Okay. So for your purposes, the satisfactions
7 and appeals would be in the order table, and the vacated
8 judgments would be in the defendant/plaintiff table; is
9 that right?
10   A   That's correct, yes.
11   Q   You produced some documents today. Let's just
12 go ahead and mark those collectively as Exhibit 6.
13
14   (Barnard Deposition Exhibit Number 6
15   was marked for identification)
16
17 BY MR. LOVE:
18   Q   Can you identify what's been marked as Exhibit
19 6?
20   A   This is Mr. Pitman, they asked, they --
21 actually, when they started, it's going to be 2001/01/01
22 through 2010/09/10.
23   Q   Is that the date range that you used to search
24 for the information requested by --
25   A   That's correct.

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1   Q   -- ms. Soutter's attorneys?
2   A   Yes.
3   Q   Okay. Is the information in the DB2 database
4 that you searched to prepare your list for Ms. Soutter's
5 attorneys, does that information come from the general
6 district court case management database?
7   A   That's correct. That's correct.
8   Q   And would you agree that if any information in
9 the general district court databases is inaccurate, then
10 the information in the list that you prepared could also
11 be inaccurate?
12   A   Not that I know of. I can't answer that.
13   Q   Was Ms. Soutter's name on the list that you
14 prepared for her attorneys?
15   A   Repeat it again, please.
16   Q   Was Donna Soutter, the plaintiff in this case,
17 was her name on the list of information that you
18 prepared for plaintiff's attorneys?
19   A   I didn't search for it.
20   Q   Let's go back to Exhibit 6.
21   A   Yes.
22   Q   If you would, please explain what the first
23 page of Exhibit Number 6 reflects.
24   A   I just retrieved the data, what is the
25 requirement asked for. It's the names, case number,

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1 plaintiff/defendant codes, actually, and principal
2 amount and judgment satisfied indicator and the date and
3 an address for plaintiff or defendant address, and
4 judgment code for each individual. Then appeal
5 perfected date, it's there or not, and court name.
6   Q   There are some handwritten numbers beside --
7   A   Oh, yes.
8   Q   Is that your handwriting?
9   A   That's my handwriting.
10   Q   And there are numbers one, two, three, four,
11 five, six, seven, eight and nine?
12   A   Nine, yes.
13   Q   Are those the nine --
14   A   Items I pulled.
15   Q   -- items that you pulled --
16   A   Yes.
17   Q   -- to create the list for Ms. Soutter's
18 attorneys?
19   A   That's correct.
20   Q   And then below that first section, there's
21 also a three and a four beside DB2, INST1.GD CRT
22 REFERENCE, then it says three. And below that, it says
23 DB2INST1.GVA hearing and 4. What does that mean with
24 that three and four handwritten notation?
25   A   One, two, three, four, those are the tables

4 (Pages 10 to 13)

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1 joined together, yes.
2   Q   That's an indication that you're searching the
3 reference table and the hearing table?
4   A   That's correct.
5   Q   And then up above where it says --
6   A   Plaintiff and defendant, that's a one
7 actually, one.
8   Q   Let's just go through these one by one.
9   A   Okay.
10   Q   Where you've indicated with the handwritten
11 note one above "name long," what were you searching for?
12   A   I just want to make sure what I search for and
13 what they asked for, the criteria.
14   Q   Does that indicate that you searched for the
15 names of these various consumers who had judgments and
16 various dispositions?
17   A   That's correct.
18   Q   Number two says "case number" and then there's
19 the handwritten two. Is that just where you searched
20 for the case number for all these cases?
21   A   Whether attached to these plaintiff or
22 defendant, yes.
23   Q   And number three says "award amount." Does
24 that just indicate that you searched for the amount of
25 the judgment?

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1   A   That's correct.
2   Q   Number four says judgment satisfied date. Is
3 that where you searched for the judgment, the date the
4 judgment was satisfied for any of these consumers who
5 had satisfied judgments?
6   A   That's correct.
7   Q   Now, the list that you provided -- and let's
8 talk about judgments satisfied for just a minute.
9   A   Yes.
10   Q   This list only reflects the status of all of
11 these court records as of the time that you prepared
12 this list; is that correct?
13   A   That's correct.
14   Q   You didn't make any efforts to write a program
15 or search to go back in time to see how any of these
16 particular judgments or dispositions were reporting at
17 any time in the past, did you?
18   A   I don't understand that because the date
19 parameter is going to be 2001, going back to 2001
20 through actually 2010. How are you going to go back to?
21 I don't understand what you're asking, actually.
22   Q   The list that you prepared goes back to
23 January 1 of 2001; right?
24   A   That's correct.
25   Q   But it only shows the manner in which

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1 judgments and dispositions are reporting for consumers
2 in Virginia in the general district court as of the time
3 that you prepared this list; right?
4   A   That's correct.
5   Q   Now, if we look at number five, it says
6 judgment satisfied and then it says "IND." What does
7 that stand for?
8   A   Indicator. Indicator.
9   Q   Okay. And what exactly did you search for
10 when you searched for judgments satisfied indicator?
11   A   We used to have only indicator, and the court
12 requested we should put satisfied date also. So it's
13 the satisfied date came in later than actually judgment
14 satisfied indicator. I cannot tell you when they put it
15 in and the date it was installed.
16   Q   So before under the court system and then the
17 DB2 database, there was only an indicator saying whether
18 or not a judgment had been satisfied; is that right?
19   A   If they had a judgment satisfied indicator, it
20 is filled with X or Y, it is going to be satisfied.
21   Q   Okay. But under the old way of doing things,
22 it didn't have in the computer system the date that the
23 judgment was satisfied; correct?
24   A   I cannot go back. I cannot go back how long
25 ago. So yes, that's correct.

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1   Q   Okay.
2   A   I don't know, the date wasn't up there, some
3 of them.
4   Q   You don't know when it changed to add the
5 date, but you --
6   A   That's correct.
7   Q   But you would agree that at some point in the
8 computer system for the general district courts in
9 Virginia for satisfied judgments, it only indicated
10 whether the judgment had been satisfied, yes or no, not
11 the date of the satisfaction?
12   A   That's correct.
13   Q   Who would know when that change occurred?
14   A   We have log in each individual program when
15 they added to it.
16   Q   Okay. Now, do you report to David Savage?
17   A   Yes.
18   Q   Would he have knowledge of when that change
19 occurred as far as you know?
20   A   I do not have no idea. We do make so much
21 changes every...
22   Q   The process evolves and improvements are made,
23 right?
24   A   Yes. Correct.
25   Q   Let's look at the next handwritten note here

5 (Pages 14 to 17)

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1   which is number six. It says A address line, A address
2   line two. What does that mean? What did you search for
3   when you searched for address line and address line two?
4   A   Address line one is a house number and a
5   street. We only have two lines address, and an others
6   line two is going to be -- it's city and state and ZIP
7   code. So you have to complete an address line one,
8   address line two to complete the address.
9   Q   Did you only search for consumers with a
10   Virginia address?
11   A   No, every one of them.
12   Q   So the people on this list could have
13   addresses that were outside Virginia?
14   A   That's correct.
15   Q   The next entry for number seven, the
16   handwritten note seven says A judgment CD. What does
17   that mean?
18   A   It's judgment code for each individual
19   plaintiff or defendant code.
20   Q   And so what are the judgment codes that could
21   be used in that field, P or D?
22   A   P or D or you could find, it's the reference
23   right here, the vacated or dismissed for the I,
24   nonsuited, U, not found, or for the others.
25   Q   Okay. Let me ask you to take a look at what

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1   was marked as Exhibit 3 in a prior deposition.
2   MR. LOVE: And if it's okay with counsel,
3   we'll just call it Exhibit 3 here.
4   MR. BENNETT: Yes.
5   BY MR. LOVE:
6   Q   Can you identify that document that's marked
7   as Exhibit 3?
8   A   Yes.
9   Q   What is that document?
10   A   This is the reference for the civil cases, the
11   HG screen and actually the hearing disposition screens.
12   Oh, this one is -- no, the case entry. And this is,
13   contains update screens and hearing disposition screens.
14   Q   Is this a document that reflects the codes
15   that are used by the clerks of the general district
16   court to enter information about cases?
17   A   That's correct.
18   Q   If you'd turn to page A5 of that document,
19   please.
20   A   Yes.
21   Q   Does page A5 contain information and codes
22   that district court clerks can use in the general
23   district courts throughout Virginia for entering
24   information into their computer case management system
25   about civil hearing dispositions in cases?

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1   A   Yes.
2   Q   And earlier when you were talking about the
3   different types of codes that could appear in the
4   judgment code field, if you look down in the bottom
5   left-hand corner of that page, there's a box that
6   contains some codes. And one says A, vacated. The next
7   ones are P, plaintiff; D, defendant; I, dismissed; N,
8   nonsuit; U, not found/unserved, and O, other. Do you
9   see that part?
10   A   Yes, I do.
11   Q   Are those the codes that could be included in
12   the judgment code field that's marked as Exhibit 7 on
13   Exhibit 6?
14   A   No.
15   Q   Okay. What codes could be included in that
16   field?
17   A   Exhibit 6. Wait a minute. I'm sorry. What
18   did you say, on Exhibit 6? Did you ask me Exhibit 6?
19   Q   Sure. Let's go back to Exhibit 6 which is
20   your program.
21   A   Okay, my program, Exhibit 6, okay.
22   Q   Look at your handwritten note number seven.
23   A   Okay. Not correct on this one, no.
24   Q   Where would I find the list of codes that
25   could be included in the judgment code field that you've

Page 21

1   marked as number seven on Exhibit 6?
2   A   It's on the right-hand side on the second --
3   third one. It's in the vacated plaintiff/defendant, for
4   each individual plaintiff or --
5   Q   Okay. I see where you're saying. Yes. If we
6   look on page A5 of Exhibit 3.
7   A   Yes.
8   Q   There is a box on the upper right-hand side?
9   A   Yes.
10   Q   That contains the same codes that are listed
11   in the box that I just read on the bottom left-hand
12   side?
13   A   Yes. Exactly.
14   Q   So it's the same codes, but those codes are
15   used both in the judgment field and they're also used in
16   the case disposition field?
17   A   That's correct. That's case disposition
18   fields. It represent the cases. It's not individual
19   judgment codes.
20   Q   Okay. But going back to Exhibit 6 where
21   you've written number seven?
22   A   Yes.
23   Q   And it says judgment code?
24   A   For each individual because plaintiff or -- I
25   search for plaintiff or the defendant table.

6 (Pages 18 to 21)

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1   MR. BENNETT: It's like the CII indicator in
2   Metro Two.
3   BY MR. LOVE:
4   Q   You searched under judgment codes for these
5   judgment codes that are indicated in the box in the
6   upper right-hand corner on Exhibit 3 that has A,
7   vacated, P, plaintiff, D, defendant, I, dismissed, N,
8   nonsuit, U, not found/unserved, and O, other?
9   A   Well, it's not I only searched for vacated
10 persons. That's what I was requested.
11   Q   Okay. So when you wrote this program for
12 number seven there, you didn't search for all these
13 codes?
14   A   No.
15   Q   You only searched for the A code --
16   A   Vacated.
17   Q   -- which was the vacated code?
18   A   Vacated code, yes.
19   Q   Let's look at number eight on Exhibit 6, your
20 handwritten note eight.
21   A   Okay.
22   Q   It says "appeal PERF DT." What does that
23 stand for?
24   A   Appeal perfected date.
25   Q   And what does that mean, appeal perfected

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1   date?
2   A   Actually, I think it's what they're saying,
3   it's appeal was set up. But it's the -- there is appeal
4   noted. We have two fields for the appeal noted and
5   appeal perfected.
6   Q   Does the list that you provided to
7   Mr. Soutter's attorney contain the names of people who
8   had appeal perfected?
9   A   Yes.
10   Q   Do you know whether, just because an
11 individual files an appeal and it shows up in the appeal
12 perfected column, whether that actually results -- well,
13 strike that.
14   MR. BENNETT: Could we go off the record for a
15 second?
16   MR. LOVE: Sure.
17
18   (Discussion off the record)
19
20 BY MR. LOVE:
21   Q   So let's look at the next number which is CRT
22 name by nine. Does that mean court name?
23   A   Court name, yes.
24   Q   Does your list contain information from all
25 the general district courts in Virginia?

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1   A   This one?
2   Q   No, the list that you provided to
3   Ms. Soutter's attorneys.
4   A   It does state, yes.
5   MR. KUGELMAN: Let me just object to the form.
6   Just for clarification, are you asking if the list
7   itself contains or was drawn from every --
8   BY MR. LOVE:
9   Q   Let me ask it a different way. Does the list
10 that you provided for Ms. Soutter's attorney, did you
11 search all the general district courts in Virginia to
12 see whether they contained names of consumers who met
13 these criteria?
14   A   Yes.
15   Q   Now, what does the rest of -- you made your
16 notes one through nine up in the top section. What does
17 the rest of this page mean? What's the information
18 reflected there?
19   A   What is the criteria. It's -- they are asking
20 for -- what kind of judgment code they asked for or the
21 judgment satisfied indicator, it's present, or
22 judgment -- the appeal perfect date is greater than
23 whatever the date it exists.
24   Q   Okay. Let's take a look at the next page of
25 Exhibit 6.

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1   A   Yes.
2   Q   There are some abbreviations and codes and
3   letters on this page. At the top it says GVPLTDEF.TXT.
4   What does that mean?
5   A   This is copy book for using for our
6   programming purposes. So it's a database to refer to.
7   This is more like a working storage. It's same layout
8   with the database. We just move -- use this working
9   storage to extract date from the database.
10   Q   Does the information on this page reflect the
11 elements that you used to search to create the list that
12 you gave to Ms. Soutter's attorneys?
13   A   Yes, I did.
14   Q   And this is basically the same elements that
15 are reflected on the first page?
16   A   That's correct.
17   Q   Let's take a look at the third page.
18   A   Okay.
19   Q   Again, this just reflects on the third, fourth
20 and fifth and last page that, again, just reflects the
21 elements that you searched in creating the list for
22 plaintiff's counsel?
23   MR. KUGELMAN: May I interject something?
24   MR. LOVE: Certainly.
25   MR. KUGELMAN: I think it's going to clarify

7 (Pages 22 to 25)

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1 the record. Mamiko, these last four pages, these
2 are excerpts of the table, what's in tables?
3   THE WITNESS: It's the table.
4   MR. KUGELMAN: These are the tables. This
5 wasn't everything that was searched. These are the
6 tables you asked about earlier. So this is just
7 what's in the tables.
8   MR. LOVE: I get it. Okay.
9   MR. KUGELMAN: What's actually searched is in
10 the first page which has the code --
11   THE WITNESS: Code that's in there, yes. I'm
12 sorry.
13   MR. KUGELMAN: -- in the database to filter it
14 out.
15   MR. LOVE: I see what you're saying.
16 BY MR. LOVE:
17   Q   So let me ask it this way. If we go back to
18 the second page of this exhibit.
19   A   Okay.
20   Q   At the top, it says Table: GVA PLT DEF. This
21 is a summary of information that's contained in the
22 plaintiff and defendant table; is that right?
23   A   Yes.
24   Q   And then if we go to the next page at the top,
25 it says Table: GVA hearing.

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1   A   Yes.
2   Q   This is the information contained in the
3 hearing table?
4   A   That's correct.
5   Q   Then on the next page, it says Table: GVA
6 order. This is the information that is contained in the
7 order table?
8   A   That's correct.
9   Q   And then finally, when we go to the next page,
10 it says Table: GD CRT reference. And this is the
11 information contained in the reference table?
12   A   Yes.
13   Q   And you didn't search for every, single item
14 contained in these tables, you only searched for the
15 limited elements that you've described already?
16   A   That's correct.
17   Q   You didn't look at any of the actual court
18 records from Ms. Soutter's file in preparing the list
19 for the plaintiffs, did you?
20   A   No, sir.
21   Q   And you haven't seen any of Ms. Soutter's
22 credit reports, have you?
23   A   No, sir.
24   Q   And of course you haven't talked to
25 Ms. Soutter?

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1   A   No, sir.
2   Q   Let me show you what we'll mark as --
3   MR. LOVE: Let's go off the record.
4
5 (Discussion off the record, Barnard Deposition
6 Exhibit Number 7 was marked for identification)
7
8 BY MR. LOVE:
9   Q   Ms. Barnard, can you identify this exhibit?
10   A   Yes. This is the one I created.
11   Q   Is this the first page of the list that you
12 created at the request of Ms. Soutter's counsel?
13   A   I do not have no idea.
14   Q   Okay. Well, it's a page from the information
15 that you provided for Ms. Soutter's counsel; would you
16 agree with that?
17   A   Yes.
18   Q   If you would, let's just go through some of
19 these examples starting at the top.
20   A   Uh-huh.
21   Q   The first column says name, and underneath it
22 says Beam's Painting. Then it says under the next field
23 across PLT-DEF?
24   A   Yes.
25   Q   Does PLT-DEF stand for plaintiff-defendant?

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1   A   That's correct.
2   Q   So that's the information that would have come
3 from the plaintiff-defendant table?
4   A   That's correct.
5   Q   Why does the list contain information about
6 defendants?
7   A   Because they asked any judgment satisfied. I
8 searched for anything judgment satisfied, that case, go
9 by the case or appeal perfected or the judgment code is
10 equal to A as vacated. So by the case, it will pick
11 every one of them, defendant or plaintiff.
12   Q   Okay. So you searched for judgments, whether
13 it was a judgment in favor of the plaintiff or --
14   A   Yes.
15   Q   -- judgment in favor of the defendant?
16   A   Not in favor. Actually, it's only -- it's
17 criteria was they asked for judgment satisfied or the
18 appeal perfected or that the vacated. It's actually the
19 judgment code was vacated. So I did not know it's going
20 to be vacated, it's going to be defendant only, so I
21 pulled every one of them.
22   Q   Okay. Did you filter out judgments or
23 dispositions of judgments that were in favor of
24 businesses instead of individual consumers?
25   A   The requirement came in defendant and the

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1 plaintiff. I asked Dave Savage what we should do on it,
2 we should put on business name, he said just the
3 plaintiff or defendant. That's all I pulled.
4   Q Okay. So on this list, for example, we see
5 under the first name, it says Beam's Painting?
6   A Yes.
7   Q And then further on down, we see the
8 University of Brown. And then we also see further down,
9 about midway, Columbia Propane Corporation. Then we see
10 Phillip's Building Supply. All of those that I just
11 mentioned would be judgments or dispositions related to
12 companies, not individuals; is that right?
13   A That's correct.
14   Q Under the column that says award amount?
15   A Yes.
16   Q Is that the amount of the judgment that was
17 entered in favor of or against the entity or individual
18 that's listed in the first column under name?
19   A I don't know. This is the principal awarded
20 amount in a case. I don't know favor or -- I don't have
21 no idea. It's -- I just extracted that date.
22   Q Okay. So for the first one, for example, for
23 Beam's Painting, the award amount, we know that a
24 judgment was entered in the amount of $200; correct?
25   A That's correct. That's correct.

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1   Q But we don't know whether that was in favor of
2 Beam's Painting or against Beam's Painting; is that
3 correct?
4   A That's correct. But judgment is against it --
5 I don't have -- I can't answer you.
6   MR. ERAUSQUIN: Can we go off the record for a
7 second?
8
9   (Discussion off the record)
10
11 BY MR. LOVE:
12   Q Now, the next heading is called "date judgment
13 satisfied."
14   A Yes.
15   Q You said earlier that you went back to 2001 to
16 collect this data. Does that mean that you searched for
17 judgments that had been satisfied as far back as 2001?
18   A That's correct.
19   Q Okay. But the list that you provided wouldn't
20 reflect when the satisfaction was actually filed at the
21 courthouse, would it?
22   A I don't have no idea the satisfied, no, I do
23 not. It depends on the courts. I don't have no idea
24 what they did.
25   Q And then if we look in the next column, it

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1 says judgment satisfied and there are some Ys and Xs.
2 Do the Ys mean yes?
3   A Yes.
4   Q Does that mean that it's indicating that that
5 particular judgment was satisfied?
6   A That's correct.
7   Q And then the "X," does that mean --
8   A Same. They could have used X or Y, either
9 way.
10   Q Oh, "X" also means that the judgment was
11 satisfied; is that right?
12   A Satisfied, that's correct.
13   Q So the court clerks can use two letters to
14 indicate that a judgment has been satisfied?
15   A That's correct.
16   Q Either a "Y" or an "X"?
17   A Yes.
18   Q Now, next it says address line one, and
19 address line two. Are those addresses that existed for
20 that particular plaintiff or defendant at a particular
21 point in time?
22   A Yes.
23   Q This list doesn't reflect the current address
24 of these plaintiffs and defendants that are in the list,
25 does it?

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1   A Well --
2   MR. KUGELMAN: I'm going to just object
3 generally to foundation. I mean, in fairness to
4 the deponent, she's here as a programmer. She
5 deals with the fields. She deals with the data in
6 the fields but she doesn't know what they mean.
7 And I think from Mr. Mittendorff's deposition, it's
8 clear that it's whatever was entered when the case
9 was filed.
10   MR. LOVE: Okay.
11   MR. KUGELMAN: But I'm just, I'm not trying to
12 step on anybody's toes. I'm just trying to --
13   MR. LOVE: Understood. I appreciate that.
14 BY MR. LOVE:
15   Q Let me ask it this way. You don't know
16 whether the addresses that are listed in address line
17 one or address line two are the current addresses for
18 any of the people in this list; is that correct?
19   A I don't have no idea, no.
20   Q And if we look at some of these examples, even
21 the first one, for example, Beam's Painting, it says
22 date judgment satisfied 8/19/2002; it's possible that
23 the addresses in address line one and address line two
24 could be addresses that were entered by the court back
25 in 2002 for that particular party; is that right?

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 1      A   I can't answer that.
 2      Q   If we look at the next heading, it says
 3   "judgment CD."  Does that stand for judgment code?
 4      A   That's correct.
 5      Q   And these are all "P" codes; is that right?
 6      A   "P" for plaintiff, yes.
 7      Q   "P" for plaintiff.  What does that mean when
 8   it says "P" under the judgment code heading?
 9          MR. KUGELMAN:  I will just say for Ms. Barnard
10      that she doesn't have any of the understanding of
11      the legal implications of the codes or what the
12      code meanings are.  She just understands what the
13      code matches with as far as what it designates.
14      But as far as the legal implications go, she
15      doesn't know.  She wants to answer your question, I
16      can assure you, but...
17   BY MR. LOVE:
18      Q   Do you know what the "P" stands for?
19      A   Plaintiff.  That's all I know, but...
20      Q   Okay.  Next is "appeal PER date."  Does that
21   mean appeal perfected date?
22      A   That's correct.
23      Q   And some of the lines or cases have blanks and
24   then some have dates.  Is it correct that the ones that
25   are blank mean no appeal was perfected for that
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 1   particular case?
 2      A   That's correct.
 3      Q   And the ones that have dates mean that an
 4   appeal was perfected on the dates that's reflected in
 5   that column?
 6      A   That's correct.
 7      Q   And then the last column is court name, and
 8   that's the name of the particular general district court
 9   in Virginia in which the particular judgment was filed?
10      A   That's correct.
11      Q   Did you contact any of the clerks for the
12   various general district courts as part of preparing
13   this list for Ms. Soutter's counsel?
14      A   No.
15      Q   Did you undertake any efforts to audit the
16   information that you prepared to see whether it
17   accurately and correctly reflected the information in
18   the Supreme Court of Virginia's database?
19      A   Yes, I did.
20      Q   What audit steps did you take?
21      A   I did a spot check, audits, the actual court
22   cases.  But I did not particular cases to look at it but
23   I just spot check it, it's right order, whatever I pull,
24   and all the criteria.
25      Q   How many did you spot check as part of that
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 1   process?
 2      A   Maybe 20.
 3      Q   And when you spot checked, did you go to the
 4   Supreme Court of Virginia's website and see what
 5   information was on the website and compare it against
 6   the list that had been run?
 7      A   Not on the website, actual court date.
 8      Q   From the general district court case
 9   management system?
10      A   Yes.  Yes.
11      Q   So you prepared your list, and then for 20 or
12   so of these cases you went to the general district court
13   case management system and compared what was on that
14   system to what was on the list?
15      A   Yes.
16      Q   Did all that match up?
17      A   Yes.
18          MR. LOVE:  Those are all the questions I have.
19      Thank you.
20          THE WITNESS:  Thank you.
21          MR. KUGELMAN:  They get to ask you some
22      questions, too.
23          THE WITNESS:  Oh, I'm sorry.
24          MR. BENNETT:  No, that's okay.
25
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 1               E X A M I N A T I O N
 2   BY MR. BENNETT:
 3      Q   We met just before the deposition.  My name is
 4   Leonard Bennett.  I represent Donna Soutter in this
 5   case.
 6      A   Okay.
 7      Q   And we have sued Equifax.  The basis for the
 8   allegation is a claim that it violated the Fair Credit
 9   Reporting Act because, by our allegation, it has no
10   system in place to regularly pick up post-judgment
11   events like satisfied, vacated and appealed.
12          What do you know about the case?
13      A   I do not have no idea.
14      Q   As I understand, Mr. Macon is a lawyer with
15   the executive secretary of the Supreme Court of
16   Virginia?
17      A   That's correct.
18      Q   And he was contacted by our group and asked to
19   obtain information from the supreme court.
20      A   That's correct.
21      Q   Then you were charged with the task of taking
22   the information the lawyers may have tried to figure out
23   and turning it into something a computer would
24   understand?
25      A   Yes.
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1   MR. LOVE: Object to the form.
2   MR. BENNETT: What was the basis?
3   MR. LOVE: Vague and ambiguous.
4 BY MR. BENNETT:
5   Q   And you did the best job that you could under
6 what the -- with the task at hand; is that correct?
7   A   Yes.
8   Q   One of the things that we learned in this case
9 after the date was then provided is that our side did
10 not ask for a code for when cases are dismissed, the "I"
11 code.
12   A   Okay.
13   Q   Do you remember any discussion about that?
14   A   No.
15   Q   No. To your knowledge was -- well, let me
16 step back.
17   Within what table is the "I" disposition kept?
18 I think the orders table is where you would find
19 satisfactions and appeals. And then the
20 plaintiff/defendant table is where the vacated code
21 field would be; correct?
22   A   It's on page A5 that was Exhibit 3.
23   MR. KUGELMAN: Oh. Is this -- I think they'll
24   be able to figure it out from the context when you
25   talk about A5. I think that's Exhibit 3.

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1   MR. BENNETT: Yes.
2   THE WITNESS: It's on the case disposition,
3   the hearing disposition.
4 BY MR. BENNETT:
5   Q   But within what table would it be?
6   A   There is two contents on the "I" because one
7 case in a final disposition "I" could be final
8 disposition also. Then each individual judgment code
9 could be "I" also.
10   MR. KUGELMAN: They just want to know what
11   table that's found on.
12   THE WITNESS: It's on the petitions, actually.
13   If it's case -- if you want to looking for the case
14   disposition, it's the plaintiff table. It's at
15   table you have to look at.
16 BY MR. BENNETT:
17   Q   Okay. And then if you wanted it for an
18 individual defendant?
19   A   That's defendant and plaintiff table.
20   Q   If you take a look at what I think we now
21 marked as 6, what language did you program the inquiry
22 or the query in? What language is this?
23   A   It's query.
24   Q   It's a query?
25   A   Yes.

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1   MR. ERAUSQUIN: Structured query language.
2   THE WITNESS: Yes.
3 BY MR. BENNETT:
4   Q   It's a structured query language?
5   A   Yes.
6   Q   And if you were to add the "I" code to search
7 for cases that had been dismissed, for example,
8 dismissed after vacated, how would you alter this?
9   A   Okay. Can I ask you questions?
10   Q   Sure.
11   A   Are you asking it's case dismissed or the
12 individual plaintiff or the defendant, I mean, that they
13 are dismissed cases?
14   Q   Either one. So --
15   A   If you have either one, cannot do either one.
16   Q   Okay.
17   A   It's --
18   Q   The individual defendants then.
19   A   If it's individual, it's going to be judgment
20 code N A comma I. You have to get to either one, I mean
21 A or I.
22   Q   And where would you put that in here?
23   A   Actually, it's where, the where -- it's all
24 the way down here. I don't think it's highlighted,
25 actually.

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1   Q   Can you read me the first language in that
2 line?
3   A   "Where."
4   Q   So it says "where A period" --
5   A   That's correct, the juror CD less than 900 and
6 judgment code equal A. So you put in a judgment code N,
7 A comma I in parentheses so you pick up either one.
8   Q   Okay. And that's the only change that would
9 be necessary in your query?
10   A   Yes, that's correct.
11   Q   And the reason that wasn't included is because
12 we didn't ask for it?
13   A   That's correct.
14   Q   If you could take a look at Exhibit 7 now, I
15 think it is, the screen print of some of the data from
16 the disk you provided?
17   A   Yes.
18   Q   And I want to -- these are the fields that we
19 had requested; correct?
20   A   That's correct.
21   Q   Let's start at the top where it says Beam's
22 Painting. The plaintiff underscore defendant column in
23 this instance has the letter "D." Do you see that?
24   A   For the defendant, yes.
25   Q   So that means that in the actual CMS, the

11 (Pages 38 to 41)

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1 court's computer, Beam's Painting is noted as the
2 defendant?
3   A   That's correct.
4   Q   To the far right it says "judgment CD"?
5   A   Code, yes.
6   Q   That column, that column is noting whether or
7 not judgment -- the judgment notation within the case
8 management system shows a judgment in the favor of the
9 plaintiff?
10   A   It's "P," yes, plaintiff.
11   Q   It's "P." And if that were vacated, it would
12 say "A"?
13   A   That's correct.
14   Q   And if it were -- but we didn't request
15 instances in which it was dismissed, nonsuited, not
16 found; correct?
17   A   Well, this case, in the plaintiff cases,
18 because the judgment was satisfied, that's why they
19 picked up every name and the judgment satisfied and it's
20 the judgment code also.
21   Q   But the point is that the -- I mean, what
22 other values -- well, let me withdraw that. Let's try
23 it this way.
24   The data that was provided in the CD that you
25 gave to us?

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1   A   Yes.
2   Q   And accept Mr. Love's representation that this
3 page is an excerpt from that. The data that you
4 provided in that CD is a subset of the full data set in
5 the court records? You didn't produce every, single
6 judgment --
7   A   No.
8   Q   -- in the court records?
9   A   No.
10   Q   And you narrowed it, and one of the ways that
11 you narrowed it was through the use of this column that
12 is the judgment column?
13   A   That's correct, yes.
14   Q   If you were to compare that judgment column to
15 what is marked as the original I think Exhibit 3 but
16 page five, A5?
17   A   Yes.
18   Q   Where is this value in the judgment CD column
19 reflected in the end user CMS screen that's A5? Is it
20 the case disposition field on the left or is it the
21 individual defendant field?
22   A   I extract from the defendant/plaintiff CD -- I
23 mean actual judgment code.
24   Q   So it's the one on the -- you extract it from
25 on the right side of this?

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1   A   On the right side, yes, right-hand side.
2   Q   Okay. And appeals don't have their own field
3 in that, their own code in that field; correct?
4   A   Appeal is on, it's the right-hand side on the
5 bottom, where it's up here, "APPL perfected."
6   Q   Okay. But an appeals would not be -- whether
7 or not a case has been appealed is not indicated based
8 on any value in the field judgment CD?
9   A   No. No. No.
10   Q   It's a different column -- it would be a
11 different part of the CMS database that the appeal
12 question is drawn from, whether or not a judgment is
13 appealed? Well, withdraw that. You've answered the
14 question before so I'm tying myself in a knot.
15   MR. BENNETT: I don't have any other
16   questions. I appreciate your time.
17   MR. LOVE: No further --
18   MR. BENNETT: Let me ask one question.
19 BY MR. BENNETT:
20   Q   If you'll take a look at your query.
21   A   Yes.
22   Q   The time sequence that you would have drawn it
23 from would have been your handwritten notes at the top;
24 is that correct?
25   A   That's correct.

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1   Q   The date parameters that are in the actual
2 query at two different points, one is halfway down?
3   A   Yes.
4   Q   It says between 2010.
5   A   Yes.
6   Q   Can you explain that?
7   A   Yes. Because our database is huge, so I have
8 to divide it each year for 2001, 2002, 2003, 4, 5
9 through 2010.
10   Q   So there would have been an identical query
11 done --
12   A   That's correct.
13   Q   -- for each year?
14   A   Yes.
15   Q   This is the copy of the one that would have
16 been used for 2010?
17   A   That's correct.
18   Q   And then the output from each of those queries
19 was synthesized into the single database that you
20 provided us?
21   A   That's correct.
22   MR. BENNETT: All right. I don't have other
23   questions. Thank you.
24   MR. KUGELMAN: Mr. Love?
25

12 (Pages 42 to 45)

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 1          F U R T H E R
 2        E X A M I N A T I O N
 3  BY MR. LOVE:
 4     Q   Well, Ms. Barnard, do you have a page that
 5  shows the search that you did for each of these roughly
 6  one-year time periods?
 7     A   Yes, I have.
 8     Q   You just brought the one that relates to --
 9     A   One, yes.
10     Q   -- January 1, 2010 --
11     A   I changed -- that's correct.
12     Q   -- through September 10, 2010?
13        MR. LOVE:  Okay.  Thank you.  No further
14  questions.
15        MR. KUGELMAN:  She'll waive.
16
17        AND FURTHER THIS DEPONENT SAITH NOT.
18
19        SIGNATURE OF THE WITNESS WAIVED BY
20  AGREEMENT OF COUNSEL AND THE WITNESS.
21
22     (Deposition concluded at 1:52 p.m.)
23          * * * * *
24
25
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 1  COMMONWEALTH OF VIRGINIA AT LARGE, to wit:
 2     I, Gwenda E. Applegate, Court Reporter,
 3  Notary Public in and for the Commonwealth of
 4  Virginia at Large, and whose commission expires
 5  November 30, 2013, do certify that the aforementioned
 6  appeared before me, was sworn by me, and was thereupon
 7  examined by counsel; and that the foregoing is a true,
 8  correct, and full transcript of the testimony adduced.
 9     I further certify that I am neither
10  related to nor associated with any counsel or party
11  to this proceeding, nor otherwise interested in the
12  event thereof.
13     Given under my hand and notarial seal at
14  Charlottesville, Virginia, this 8th day of October
15  2010.
16
17
18
19
20  _____
21     Gwenda E. Applegate, Notary Public
22     Commonwealth of Virginia at Large
23        Registration Number 115863
24
25
```

```
 1
 2     CHANGES REQUESTED TO THE DEPOSITION OF:
 3        MAMIKO BARNARD
 4        TAKEN:  October 6, 2010
 5
 6
 7  PAGE/LINE:        DESCRIPTION
 8  _____
 9  _____
10  _____
11  _____
12  _____
13  _____
14  _____
15  _____
16
17
18     DATE: _____
19   SIGNATURE: _____
20
21  NOTARY PUBLIC: _____
22  MY COMMISSION EXPIRES: _____
23
24
25  REPORTED BY: GWENDA E. APPLEGATE, RPR, CRR
```

TSG Reporting 877-702-9580

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